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## FREEDOM OF INFORMATION ACT APPEAL

June 28, 2018

### Via E-Mail and U.S. Mail

National Freedom of Information Act Officer  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue N.W. (2822T)  
Washington, DC 20460  
[hq.foia@epa.gov](mailto:hq.foia@epa.gov)

**RE: Appeal of Freedom of Information Act Request EPA-HQ-2018-001971**

Dear Freedom of Information Officer,

This letter is in reference to Graves Garrett LLC's ("Graves Garrett" or "the Firm") Freedom of Information Act Request to the U.S. Environmental Protection Agency (the "EPA" or "agency"). On November 20, 2017, Graves Garrett requested that the EPA produce certain communications with Roberta F. White related to the Ramazzini Institute. The EPA assigned this request tracking number EPA-HQ-2018-001971. The agency produced certain records to the Firm on May 29, 2018. After reviewing the agency's Interim Response letter, many issues remain.

Graves Garrett appeals several decisions of the agency. The Firm appeals the adequacy of the agency's search, the agency's redactions under exemptions (b)(5) and (6), and the agency's failure to search for and produce text and instant messages.

EXHIBIT

C



## I. The EPA's Search Was Inadequate

Graves Garrett asserts that the EPA's search was inadequate for at least three reasons. First, EPA has added subjective and additional criteria to the search terms that the Firm provided, unreasonably limiting its production. Second, EPA has not searched all sub-agencies where responsive records are reasonably likely to be found. Third, and relatedly, EPA refuses to search its entire email database, claiming that it is technically impossible to search anything other than particular email accounts of identifiable agency employees.

After receiving Graves Garrett's request on November 22, 2017, EPA first routed it to the Office of Pesticide Programs ("OPP") for processing. On December 27, 2017, the agency transferred the request from OPP to the Office of the Administrator ("OA"). **Exhibit A.** Since then, Attorney-Advisor Victor Farren has managed the agency's response to the request.

On April 6, 2018, Mr. Farren left a voicemail message regarding Graves Garrett's request. In his message, Mr. Farren represented that the pre-case assessment results indicated that the EPA retained 2,600 records responsive to Graves Garrett's request. Mr. Farren expressed that this number could "double or triple" over the course of OA's review.

In early May, Mr. Farren informed the Firm that, even though Mr. Farren believed that responsive records might be located elsewhere, EPA had only searched for responsive records contained in the OA email database. Graves Garrett was alarmed by this development. On May 2, 2018, attorneys from Graves Garrett called Mr. Farren to express their concern. *See Exhibit B* at 4-5 (email from J. Benton Hurst to Victor Farren summarizing May 2, 2018 telephone call).

Mr. Farren suggested that OA did not possess any records that the Firm is "looking for" or would be "interested in" and that OPP may possess such records. Such a statement alone is concerning, as it suggests Mr. Farren was subjectively analyzing records to determine their responsiveness. There would be no need for such subjective analysis in this case, because Graves Garrett supplied the search terms that defined the documents it sought. Graves Garrett specifically objects to and appeals the agency's use of any subjective or additional criteria to determine responsiveness other than the search terms provided.



On May 29, 2018 Graves Garrett received an Interim Response from the Office of the Executive Secretariat (“OES”). **Exhibit C.** In the Interim Response letter, OES states that a search was performed of post-2013 “Microsoft Outlook correspondence for Roberta White and responsive records were located. . . . Upon review, portions of the records are exempt from mandatory disclosure pursuant to FOIA Exemptions 5 and 6, which protect the deliberative process, the attorney client privilege and the attorney work product, and personal privacy. The records are released to you with corresponding redactions.” *Id.* OES produced 152 pages of records, some of which were partially redacted. Although OES confirmed that the agency is still processing the Firm’s requests as it pertains to pre-2013 Lotus Notes correspondence, Graves Garrett does not know whether the agency is still processing its request for additional records which may be located outside of OA. *See id.*

Graves Garrett is concerned that the minimum of 2,600 records from the pre-case assessment yielded only 152 responsive records. Given Mr. Farren’s representations related to Graves Garrett’s “interest” in the reviewed materials, it is very likely that the search by OA for responsive document was inadequate.

On June 11, 2018, Mr. Farren notified the Firm that the personnel at OPP stated that “their group was not involved with the Ramazzini Institute” and that Mr. Farren should check with the Office of Research and Development (“ORD”). **Exhibit B** at 1. Mr. Farren stated that he is now coordinating with ORD and hopes to provide an update soon.

In sum, on November 22, 2017, the EPA assigned the Firm’s request to OPP. After a month OPP sent the request to OA. In April, Mr. Farren stated that the pre-case assessment revealed 2,600 documents responsive to the Firm’s search terms. In early May, Mr. Farren suggested that OPP may have the records after all. Nonetheless, on May 29, the EPA produced only 152 pages of records—out of more than 2,600. And now in June—seven months after Graves Garrett made its request—Mr. Farren states that OPP does not actually have any responsive records, though it is unclear how it came to this conclusion. Now, it appears that the EPA has been looking in the wrong place all along, and ORD has the records.

After the various transfers and delays, Graves Garrett has developed substantial concerns about the adequacy of the agency’s search. It appears that the EPA has



arbitrarily limited its search for records responsive to Graves Garrett's search terms to various sub-agencies. The Firm is entitled to a reasonable search of all places where records responsive to its request may be found. Graves Garrett asserts that the agency has not conducted a reasonable search and appeals its failure to do so.

Mr. Farren has also stated that the agency will search only within custodian accounts, and that it cannot run the searches across all emails that EPA possesses. As it has from the beginning, Graves Garrett insists that the agency search across its entire email database for documents responsive to the terms it has provided. The Firm objects to the agency's stated practice of searching only within the accounts of certain employees. Records that EPA retains of correspondence between its employees and persons named in Graves Garrett's request are public records and subject to FOIA. Arbitrarily restricting the searches to be performed to email accounts of current employees is not a reasonable search for records of EPA employee correspondence with third parties. EPA should search the to/from/cc/bcc fields of all emails it retains for the persons identified in Graves Garrett's request—here, Roberta White—and entire emails for the other terms Graves Garrett identified. This can be done with minimal effort using automated means. The EPA's refusal to do so is unreasonable. Graves Garrett appeals the agency's failure to search across its entire database.

Given Mr. Farren's statements and the sharp contrast between the 2,600 document pre-case assessment and the 152 page production, the EPA's refusal to conduct an automated search of all email accounts, and the hot-potato treatment the EPA sub-agencies have given this request, Graves Garrett asserts that the EPA's search for records was inadequate and appeals the adequacy of the search.

## **II. Improper Redactions**

In addition, Graves Garrett appeals the EPA's decision to redact portions of the responsive records. EPA redacted various portions of the 152 pages based on claims that the records satisfied Exemptions 5 and 6.

On information and belief, some of these redactions may be unwarranted. Graves Garrett appeals the agency's decision to redact this information. Graves Garrett also appeals the agency's decision to withhold any documents in full, to the extent that it has done so.



### **III. EPA Failed to Search for Text and Instant Messages**

Lastly, Graves Garrett requested text and instant message correspondence. The agency produced no text or instant correspondence, yet did not assert that no responsive correspondence exists. Graves Garrett appeals the agency's failure to search for and produce responsive text and instant messages.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'BH', is positioned below the word 'Sincerely,'.

Ben Hurst  
Graves Garrett LLC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CHEMICAL SAFETY AND  
POLLUTION PREVENTION

December 27, 2016

John B. Hurst  
Graves Garrett LLC  
1100 Main St., Ste. 2700  
Kansas City, MO 64105

Re: Freedom of Information Act - EPA-HQ-2018-001970, EPA-HQ-2018-001971, EPA-HQ-2018-001973 and EPA-HQ-2018-001974/**Initial Response**

Dear Mr. Hurst:

This is in response to your inquiries to the Freedom of Information Office in the Environmental Protection Agency's (EPA) Office of Pesticide Programs (OPP) for records as you described below:

**EPA-HQ-2018-001970-** 1. All correspondence (including attachments) a. Sent to or from (including also copying, whether as cc: or bcc:), Ruth Ann Etzel; and b. Which include anywhere in the correspondence, whether the body, the Subject, To:, From:, cc:, or bcc: fields: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate; 2. All text or instant message correspondence (entire threads) to or from Ruth Ann Etzel mentioning or including any of the following terms in the subject line or body of the message/correspondence: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate. For both requests, please produce records dated from January 1, 2009 through the date you process the request, inclusive.

**EPA-HQ-2018-001971-** 1. All correspondence (including attachments) a. Sent to or from (including also copying, whether as cc: or bcc:), Roberta F. White; and b. Which include anywhere in the correspondence, whether the body, the Subject, To:, From:, cc:, or bcc: fields: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate; 2. All text or instant message correspondence (entire threads) to or from Roberta F. White mentioning or including any of the following terms in the subject line or body of the message/correspondence: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate. For both requests, please produce records dated from January 1, 2009 through the date you process the request, inclusive.

**EPA-HQ-2018-001973-** 1. All correspondence (including attachments) a. Sent to or from (including also copying, whether as cc: or bcc:), Robert Orrin Wright; and b. Which include anywhere in the correspondence, whether the body, the Subject, To:, From:, cc:, or bcc: fields: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate; 2. All text or instant message correspondence (entire threads) to or from Robert Orrin Wright mentioning or including any of the following terms in the subject line or body of the message/correspondence: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate. For both requests, please produce records dated from January 1, 2009 through the date you process the request, inclusive.

EXHIBIT

A

exhibitsticker.com

-2-

**EPA-HQ-2018-001974-** 1. All correspondence (including attachments) a. Sent to or from (including also copying, whether as cc: or bcc:), Daniel Teitelbaum; and b. Which include anywhere in the correspondence, whether the body, the Subject, To:, From:, cc:, or bcc: fields: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate; 2. All text or instant message correspondence (entire threads) to or from Daniel Teitelbaum mentioning or including any of the following terms in the subject line or body of the message/correspondence: Ramazzini Institute, BRI, Linda Birnbaum, Phil Landrigan, Thomas Burke, Christopher Portier, Fiorella Belpoggi, and/or glyphosate. For both requests, please produce records dated from January 1, 2009 through the date you process the request, inclusive.

As I indicated in our telephone conversation today, these request will be processed by the FOIA staff in the Office of the Administrator. They will have the Agency's IT staff to conduct one electronic search for all four EPA custodians, as the Office of Pesticide Programs (OPP) consolidated the other 41 requests under one search. The FOIA staff in the Administrator's Office will have to consult with other Agency offices since it appears that Robert Wright and Daniel Teitelbaum are assigned to offices outside of the Office of Administrator.

As we also discussed, we are asking for an additional 20 working days in order for the Office of the Administrator to analyze and respond to your request, since they are just receiving these requests as the lead processing office. Until your requests has been assigned to an individual staff member in the Office of the Administrator, you should contact Victor Farren, an Attorney in that office. If you have any questions Mr. Farren can be reached at [Farren.victor@epa.gov](mailto:Farren.victor@epa.gov) or 202-564-0808.

The Agency appreciates your patience in this matter and your willingness to work with us in developing a plan to address your recently submitted FOIA requests.

If you have any questions, please contact me on 703-305-5456 (8:00 a.m. to 5:30 p.m.) or via email at [ingram.earl@epa.gov](mailto:ingram.earl@epa.gov). Refer to the request number when contacting me.

Sincerely,



Earl Ingram, Chief  
Public Information and Records Integrity Branch  
Information Technology and Resources Management Division  
Office of Pesticide Programs

**From:** Farren, Victor  
**To:** [Hurst, Ben](#); [Wittenberg, Nicholas](#)  
**Cc:** [Badell, Rebekah](#); [Hunkins, Garrett W.](#); [Ingram, Earl](#)  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation  
**Date:** Monday, June 11, 2018 11:49:43 AM

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Mr. Hurst,

I am process of reviewing the documents for Robert Wright (EPA-HQ-2017-001973) and I will start Ruth Ann Etzel (EPA-HQ-2018-001970) after that.

I spoke with Mr. Ingram and Mr. Wittenberg about your requests and I was informed that their group was not involved with Ramazzini Institute and that I should follow up with our Office of Research and Development. I am coordinating with ORD and I hope to provide you with an update soon. In the meantime, I will continue to process the documents we have already gathered for the custodians you listed in your requests.

Regards,

Victor J. Farren  
Attorney-Advisor  
U. S. Environmental Protection Agency  
Office of the Executive Secretariat  
(202) 564-0808

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**From:** Hurst, Ben [mailto:[BHurst@gravesgarrett.com](mailto:BHurst@gravesgarrett.com)]  
**Sent:** Friday, June 08, 2018 3:04 PM  
**To:** Farren, Victor <[Farren.Victor@epa.gov](mailto:Farren.Victor@epa.gov)>; Wittenberg, Nicholas <[wittenberg.nicholas@epa.gov](mailto:wittenberg.nicholas@epa.gov)>  
**Cc:** Badell, Rebekah <[RBadell@gravesgarrett.com](mailto:RBadell@gravesgarrett.com)>; Hunkins, Garrett W. <[ghunkins@gravesgarrett.com](mailto:ghunkins@gravesgarrett.com)>; Ingram, Earl <[Ingram.Earl@epa.gov](mailto:Ingram.Earl@epa.gov)>  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Victor,

Can you give me an update on the processing of our firm's requests? Specifically, when do you expect to finish your production on 1970, 1973, and 1974? And have you also sent all four of the requests to Nick so his groups can run the searches, as we discussed in May?

Nick, please chime in with any information you have about those requests.

Thanks again for your help.

**EXHIBIT**

**B**

exhibitstickler.com



Regards,

Ben

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**From:** Hurst, Ben  
**Sent:** Wednesday, May 30, 2018 9:09 AM  
**To:** 'Farren, Victor'; Wittenberg, Nicholas  
**Cc:** Badell, Rebekah; Hunkins, Garrett W.; Ingram, Earl  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Victor,

Thanks for that; we will look for them. When do you expect to finish your production on the other requests? And have you also sent all four requests to Nick so his group can search for them as well, as we discussed in our call on May 2?

Thanks,

Ben

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**From:** Farren, Victor [mailto:Farren.Victor@epa.gov]  
**Sent:** Tuesday, May 29, 2018 4:02 PM  
**To:** Hurst, Ben; Wittenberg, Nicholas  
**Cc:** Badell, Rebekah; Hunkins, Garrett W.; Ingram, Earl  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Mr. Hurst,

Earlier today I sent you an interim response and documents pursuant to your request ending in 001971. Please refer to the letter and documents sent through FOIAonline. We continue to process your other requests and will provide you documents as they become available.

Regards,

Victor J. Farren  
Attorney-Advisor  
U. S. Environmental Protection Agency  
Office of the Executive Secretariat  
(202) 564-0808

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**From:** Hurst, Ben [mailto:BHurst@gravesgarrett.com]  
**Sent:** Tuesday, May 29, 2018 4:30 PM  
**To:** Wittenberg, Nicholas <wittenberg.nicholas@epa.gov>; Farren, Victor <Farren.Victor@epa.gov>

**Cc:** Badell, Rebekah <RBadell@gravesgarrett.com>; Hunkins, Garrett W. <ghunkins@gravesgarrett.com>; Ingram, Earl <Ingram.Earl@epa.gov>  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Thanks, Nick. We'll be looking for that production soon and appreciate your effort in getting it to us.

Can you give us an update on your processing of 1970, 1971, 1973, and 1974?

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**From:** Wittenberg, Nicholas [mailto:wittenberg.nicholas@epa.gov]  
**Sent:** Tuesday, May 29, 2018 2:45 PM  
**To:** Farren, Victor; Hurst, Ben  
**Cc:** Badell, Rebekah; Hunkins, Garrett W.; Ingram, Earl  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Good Afternoon Ben,

We are finishing up reviewing documents for your matter and will have them sent to the production queue.

We are hoping to have the documents produced late next week or early the following.

All the best,  
Nick

Nicholas Wittenberg  
Attorney-Advisor  
United States Environmental Protection Agency  
Office of Pesticide Programs  
Information Technology & Resources Management Division  
Public Information & Records Integrity Branch  
1200 Pennsylvania Avenue, NW (MC 7502P)  
Washington, D.C. 20460  
Phone: (703) 347-8875  
Email: [wittenberg.nicholas@epa.gov](mailto:wittenberg.nicholas@epa.gov)

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**From:** Farren, Victor  
**Sent:** Tuesday, May 29, 2018 11:59 AM  
**To:** Hurst, Ben <BHurst@gravesgarrett.com>; Wittenberg, Nicholas <wittenberg.nicholas@epa.gov>  
**Cc:** Badell, Rebekah <RBadell@gravesgarrett.com>; Hunkins, Garrett W. <ghunkins@gravesgarrett.com>  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Sorry I missed your call. I am trying to get you the Roberta White documents today.

Victor

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**From:** Hurst, Ben [<mailto:BHurst@gravesgarrett.com>]  
**Sent:** Tuesday, May 29, 2018 11:27 AM  
**To:** Farren, Victor <[Farren.Victor@epa.gov](mailto:Farren.Victor@epa.gov)>; Wittenberg, Nicholas <[wittenberg.nicholas@epa.gov](mailto:wittenberg.nicholas@epa.gov)>  
**Cc:** Badell, Rebekah <[RBadell@gravesgarrett.com](mailto:RBadell@gravesgarrett.com)>; Hunkins, Garrett W. <[ghunkins@gravesgarrett.com](mailto:ghunkins@gravesgarrett.com)>  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Victor,

I'm following up on a voicemail that I left you a few minutes ago. Can you please give me an update on your processing of these requests?

Nick, I expect you have also been working on these requests. Please let me know where they stand.

Thank you both,

Ben

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**From:** Hurst, Ben  
**Sent:** Wednesday, May 02, 2018 12:31 PM  
**To:** 'Farren, Victor'  
**Cc:** Badell, Rebekah; Hunkins, Garrett W.  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Victor,

It was a pleasure to speak with you just now. As we discussed, we maintain that the agency should run our firm's requests as searches across its email database. It should search the to/from/cc/bcc field for the named correspondent and the entire correspondence for the identified terms. We believe that these searches can be run by automated means with minimal time and effort, as other agencies have done. We continue to object to the agency's unreasonable delay and failure to meet the statutory deadlines.

I understand from our call that the agency will not run our searches across its entire database. The agency asserts that this is technically impossible. Instead, the agency will only run our requested searches only within one or more custodians' accounts. As I noted to you on the phone, we object to this unreasonable restriction and believe the agency should run the searches we requested across all accounts.

Regardless, I understand that the agency has identified records responsive to our search terms within the accounts of EPA employees Roberta White, Robert Wright, Daniel Tietelbaum, and Ruth Ann Etzel. I understand that you are reviewing these documents now (except Etzel), and that you intend to produce Roberta White within 2 weeks, Robert Wright by the end of May, and Dan Tietelbaum this summer. You stated that you have not yet received the documents for Ruth Ann

Etzel and could not provide an estimate for their production.

You also offered to submit our requests to Nick Wittenberg in the pesticides group to be run across some accounts there. As I stated, I believe any processing by his group should be run parallel to yours in time, not sequentially. It is the agency's responsibility to search for records where they are likely to be found, and if that requires it to search in two different locations, it should do so without additional delay. As I stated, that the agency may have responsive records in two different locations does not require us to submit a new request, especially given the current delay in processing. You offered to forward our request to Wittenberg, and I will look for your correspondence to him doing so.

Lastly, I thank you for your time on the phone and your efforts thus far. Please keep us up to date on your progress.

Regards,

Ben

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**From:** Farren, Victor [<mailto:Farren.Victor@epa.gov>]  
**Sent:** Wednesday, May 02, 2018 10:57 AM  
**To:** Hurst, Ben  
**Cc:** Badell, Rebekah; Hunkins, Garrett W.  
**Subject:** RE: FOIA Requests 1970/1971/1973/1974, delay, potential litigation

Mr. Hurst,

Thank you for your letter. As you know we have begun processing all of these requests. During the course of our review we have realized that 2 of the requested custodians, Roberta F White and Robert Orrin Wright are not EPA employees. I discussed the issue of Robert Wright with your colleague, Mr. Hunkins, but our agreed upon approach is still not going to produce documents that are responsive to your request. Given the above, I also have doubts about custodian Daniel Teitelbaum.

The only custodian you mentioned that I have some confidence is in fact an EPA employee is Ruth Etzel. We have identified approximately 5,300 documents that need to be reviewed once the collection is complete. I will not know how long it will take to process documents until we complete this process.

Given the complications above I think we need to have a conversation about your requests and what you are really looking for. The way they are worded has created some confusion that needs to be cleared up before we proceed.

Please contact me at your earliest convenience.

Sincerely,

Victor J. Farren  
Attorney-Advisor  
U. S. Environmental Protection Agency  
Office of the Executive Secretariat  
(202) 564-0808

---

**From:** Hurst, Ben [<mailto:BHurst@gravesgarrett.com>]  
**Sent:** Wednesday, April 25, 2018 1:43 PM  
**To:** Farren, Victor <[Farren.Victor@epa.gov](mailto:Farren.Victor@epa.gov)>  
**Cc:** Badell, Rebekah <[RBadell@gravesgarrett.com](mailto:RBadell@gravesgarrett.com)>; Hunkins, Garrett W. <[ghunkins@gravesgarrett.com](mailto:ghunkins@gravesgarrett.com)>  
**Subject:** FOIA Requests 1970/1971/1973/1974, delay, potential litigation

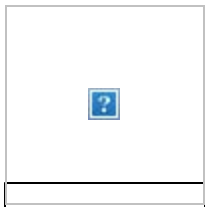
Mr. Farren,

Please see the attached correspondence concerning the subject requests. Feel free to call me or my colleague, Garrett Hunkins, with any questions.

Regards,

Ben

J. Benton Hurst



1100 Main Street, Suite 2700  
Kansas City, MO 64105  
Phone: (816) 285-3892  
Fax: (816) 256-5958  
[BHurst@gravesgarrett.com](mailto:BHurst@gravesgarrett.com)

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J. Benton Hurst



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J. Benton Hurst

[Redacted]

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

May 29, 2017

OFFICE OF THE  
EXECUTIVE SECRETARIAT

Mr. J. Benton Hurst  
Graves Garrett, LLC  
1100 Main Street, Suite 2700  
Kansas City, MO 64105

Dear Mr. Hurst:

The Freedom of Information Act request you filed with the U.S. Environmental Protection Agency seeking communications with Roberta F. White related to the Ramazzini Institute since January 2009, was designated EPA-HQ-2018-001971 and assigned to the Office of the Administrator for response. The Office of the Administrator's interim response is enclosed.

In 2013 the EPA adopted a new email system, changing from Lotus Notes to Microsoft Outlook. The EPA conducted a search of Microsoft Outlook correspondence for Roberta White, and responsive records were located. We are still in the process of searching for pre-2013 correspondence. Upon review, portions of the records are exempt from mandatory disclosure pursuant to FOIA Exemptions 5 and 6, which protect the deliberative process, the attorney client privilege and attorney work product, and personal privacy. The records are released to you with corresponding redactions.

If you have any concerns, you may appeal this response with an email to [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or by writing to the National Freedom of Information Act officer at:

U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
Records, FOIA and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, D.C. 20460

Please note that only correspondence mailed through the U.S. Postal Service can be delivered to the address above. If you would like to deliver your appeal in person, via courier service or via an overnight delivery service, you must address your correspondence to 1301 Constitution Avenue, NW, Room 6416J, Washington, D.C. 20001.

Your written appeal must be received no later than 90 calendar days from the date of this letter and should include the request number listed above. The EPA will not consider appeals received after the 90 calendar-day limit. In addition, appeals received after 5 p.m. Eastern time are



considered as having been received the next business day. For the quickest possible handling, the subject line of your email or the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute resolution services from the EPA's FOIA public liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202) 566-1667 or from the National Archives and Records Administration's Office of Government Information Services. You may contact the Office of Government Information Services with an email to [ogis@nara.gov](mailto:ogis@nara.gov); by calling toll free (877) 684-6448 or (202) 741-5770; with a fax to (202) 741-5769; or by mail to National Archives and Records Administration, Office of Government Information Services, 8601 Adelphi Road - OGIS, College Park, Maryland 20740-6001.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth White", written in a cursive style.

Elizabeth White  
Director

Enclosure